

BB DEVELOPMENT, LLC

Site Location of Development Act // Natural Resources Protection Act  
Phase I-Oxford Resort Casino – Oxford

#### STATUTORY REFERENCES

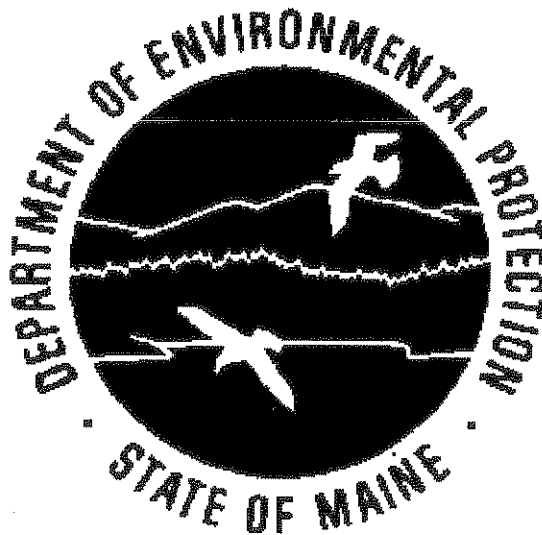
- Site Law Statute – Standards
- Site Law – Rules
- NRPA Statute – Standards
- Chapter 310, Wetland and Waterbodies Protection Rules
- Chapter 335, Significant Wildlife Habitat (significant vernal pool habitat)
- Chapter 500 & 502, Stormwater Management Rules
- General Permit – Construction Activity (MCGP)

**STATE OF MAINE**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**SITE LOCATION OF DEVELOPMENT**  
**and related provisions of PL 2007, c. 661, Part B**

38 M.R.S.A. §§ 481-490

STATUTE



to that order or permit.

#### § 484. Standards for development

The department shall approve a development proposal whenever it finds the following.

**1. Financial capacity.** The developer has the financial capacity and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this article. The commissioner may issue a permit under this article that conditions any site alterations upon a developer providing the commissioner with evidence that the developer has been granted a line of credit or a loan by a financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A or with evidence of any other form of financial assurance the board determines by rule to be adequate.

**2. Traffic movement.** Repealed. Laws 1999, c. 468, § 9 (effective June 30, 1999).

**3. No adverse effect on the natural environment.** The developer has made adequate provision for fitting the development harmoniously into the existing natural environment and that the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.

A. In making a determination under this subsection, the department may consider the effect of noise from a commercial or industrial development. Noise from a residential development approved under this article may not be regulated under this subsection, and noise generated between the hours of 7 a.m. and 7 p.m. or during daylight hours, whichever is longer, by construction of a development approved under this article may not be regulated under this subsection.

B. In determining whether a developer has made adequate provision for the control of noise generated by a commercial or industrial development, the department shall consider board rules relating to noise and the quantifiable noise standards of the municipality in which the development is located and of any municipality that may be affected by the noise.

C. Nothing in this subsection may be construed to prohibit a municipality from adopting noise regulations stricter than those adopted by the board.

D and E. Repealed. Laws 1995, c. 700, § 6.

F. In making a determination under this subsection regarding a structure to facilitate withdrawal of groundwater, the department shall consider the effects of the proposed withdrawal on waters of the State, as defined by section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the department shall consider both the direct effects of the proposed water withdrawal and its effects in combination with existing water withdrawals.

G. In making a determination under this subsection regarding an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, the department shall consider the development's or project's effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3452.<sup>9</sup>

**4. Soil types.** The proposed development will be built on soil types that are suitable to the nature of the undertaking.

**4-A. Storm water management and erosion and sedimentation control.** The proposed

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<sup>9</sup> Section 484(3)(G) is effective April 18, 2008. See PL 2007, ch. 661. The text of Title 35-A, section 3452 is contained in Appendix B of this handout.

development, other than a metallic mineral mining or advanced exploration activity, meets the standards for storm water management in section 420-D and the standard for erosion and sedimentation control in section 420-C. A proposed metallic mineral mining or advanced exploration activity must meet storm water standards in department rules adopted to implement subsections 3 and 7. If exempt under section 420-D, subsection 7, a proposed development must satisfy the applicable storm water quantity standard and, if the development is located in the direct watershed of a lake included in the list adopted pursuant to section 420-D, subsection 3, any applicable storm water quality standards adopted pursuant to section 420-D. For redevelopment projects only, the standards for storm water management in section 420-D are met if the proposed development is located in a designated area served by a department-approved management system for storm water as described in section 420-D, subsection 2, as long as the owner or operator of the parcel upon which the proposed development will be located enters into or obtains and remains in compliance with all agreements, permits and approvals necessary for the proposed development to be served by such management system for storm water.<sup>10</sup>

**5. Ground water.** The proposed development will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur.

**6. Infrastructure.** The developer has made adequate provision of utilities, including water supplies, sewerage facilities and solid waste disposal, required for the development, and the development will not have an unreasonable adverse effect on the existing or proposed utilities in the municipality or area served by those services.

**7. Flooding.** The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

**8. Sand supply.** Repealed. Laws 1993, c. 383, § 23.<sup>11</sup>

**9. Blasting.** Blasting will be conducted in accordance with the standards in section 490-Z, subsection 14 unless otherwise approved by the department.

**10. Special provisions; grid-scale wind energy development.**<sup>12</sup> In the case of a grid-scale wind energy development, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

A. Will be designed and sited to avoid unreasonable adverse shadow flicker effects;

B. Will be constructed with setbacks adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities; and

C. Will provide significant tangible benefits as determined pursuant to Title 35-A, section 3454, if the development is an expedited wind energy development.

The Department of Labor, the Executive Department, State Planning Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

For purposes of this subsection, "grid-scale wind energy development," "primary siting authority," "significant tangible benefits" and "expedited wind energy development" have the same meanings as in Title 35-A, section 3451.

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<sup>10</sup> The last sentence beginning "for redevelopment projects only..." was enacted retroactively to July 1, 2009. See PL 2009, ch. 506.

<sup>11</sup> Repealed subsection read: "If the activity is on or adjacent to a sand dune, it will not unreasonably interfere with the natural supply or movement of sand within or to the sand dune system."

<sup>12</sup> Section 484(10) was effective April 18, 2008. See PL 2007, ch. 661. Section 484(10) was amended effective April 7, 2010 to add reference to "offshore wind power project with an aggregate generating capacity of 3 megawatts or more...". See PL 2009, ch. 615, Section E-18.